

### **REMARKS**

Examiner Lindsay is thanked for the thorough Office Action.

#### **In the claims**

Claims 3 thru 10 are amended to correct a typographical error. The claims are amended to read: “The method of claim 1”.

Claims 11 and 12 are amended to correct a typographical error. Claims 11 and 12 are amended “~~The semiconductor device~~ The method of claim 1” to be method claims that depend from parent claim 1. **Also, claims 11 and 12 should be included in the examiner’s Group V1 in the restriction requirement** since claims 11 and 12 depend from parent method claim 1 and are method claims.

Dependent claims 23 thru 26 are amended to depend from parent claim 22.

No new matter is added.

#### **Election/Restriction**

In the instant Office action, Restriction is required to one of the following inventions is required under 35 U. S. C.121. The inventions stated are:

- I. Claims 11-12 are, drawn to a semiconductor device with a {001} silicon substrate, classified in class 257, subclass 1+.
- II. Claims 13-16 are, drawn to a semiconductor device with [100] or [010] crystal direction, classified in class 257, subclass 1+.
- III. Claims 17-21 are, drawn to a semiconductor device with [100] or [110] crystal direction, classified in class 257, subclass 1 +.
- IV. Claims 22-26 are, drawn to a semiconductor device with an annular channel, classified in class 257, subclass 1 +.

V. Claims 35-37 are, drawn to a semiconductor device with an first and second annular S/D doped region, classified in class 257, and subclass 1 +.

VI. Claims 1-10 are, drawn to a method of making a semiconductor device with a {001} silicon substrate, classified in class 438, subclass 301.

VII. Claims 27-34 are, drawn to a method of making a semiconductor device with an annular channel, classified in class 438, subclass 301.

VIII. Claims 38-39 are, drawn to a method of making a semiconductor device with a p<sup>-</sup> epi layer over the substrate, classified in class 438, subclass 301.

The office action posits that the inventions are distinct, each from the other because of the following reasons:

Inventions of Groups VI VII and VIII and Groups I, II, III, IV and V are related as process of making and product made. The inventions are distinct if either or both of the following can be shown (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case unpatentability of the group I, II, III, IV and V inventions would not necessarily imply the unpatentability of the group VI VII and VIII inventions since the devices of the group I II III IV and V inventions could be made by processes materially different from those of the group VI VII and VIII inventions. For example Twist angle and tilt angle of the method do not have to be implement in the device claims to the same degree, and the device would still be possible to make. Also the channel directions are not the same and some embodiments do not call for monocrystalline silicon substrates and can be made of polysilicon substrates.

The instant office action in paragraph 3 further posits:

3. Because these inventions are distinct for the reasons given above and the search required for Groups I, II, III, IV and V is not required for Groups VI, VII and VIII, restriction for examination purposes as indicated is proper.

**Provisional Election**

**Applicant provisionally elects to be examined the Invention described by the Examiner as Group VI. - Claims 1-10 (and amended method claims 11 and 12 that depend from claim 1). This election is made with traverse of the requirement under 37 C.F.R.1.143 for the reasons given in the following paragraphs.**

**Respectful Request To Reconsider The Requirement For Restriction – Method Claim Groups VI, VII and VIII should be examined in the same application.**

The Examiner is respectfully requested to reconsider the Requirement for Restriction given in the Office Action.

**Applicant argues that Groups VI, VII and VIII (all method claims) should be examined in the same application. Applicant respectfully requests to have Groups VI, VII and VIII examined in this application.**

**First, the examiner has given no reasons and support why groups VI, VII and VIII (all method claims) are distinct from each other. Second, it can be argued that groups VII and VIII are embodiments of group VI. For example, group VI, claims 7, 8 and 9 are claim “annual shaped doped regions” similarly as Group VII (claims 27-34). An another example is that Group VI, claim 11 claims a LDMOS device similarly to group VIII, claim 38 and 39.**

Furthermore, Applicant argues that the device claims Groups II, III, IV and V should be one invention. The examiner has give no reasons and support why the II, III, IV and V groups are non-distinct over each other.

For these reasons Applicant respectfully requests to have Groups VI, VII and VIII examined in this present application.

**Search Classifications – necessarily co-extensive**

The instant Office action further posits:

2. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

However, the method groups VI, VII and VIII have the same classifications and field of search and examining these group poses no additional burden on the patent office.

Moreover, the device groups I, II III IV and V have the same classifications and field of search and examining these group poses no additional burden on the patent office.

However, the search for each type claim (method and device) must cover both the method class/subclass and the product class/subclass in addition to other related classes/subclasses to provide a complete and adequate search. The fields of search for the Group II thru V and method Groups VI to VIII inventions are clearly and necessarily co-extensive. Therefore, it does not appear to be an additional burden on the patent office.

In addition, it is respectfully suggested that these reasons are insufficient to place the additional cost of a second Patent Application upon the Applicants. Therefore, it is respectfully requested that the Examiner withdraw this restriction requirement for these reasons.

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**CONCLUSION**

In conclusion, reconsideration and withdrawal of the restriction requirement is respectfully requested. Allowance of all claims is requested. Issuance of the application is requested.

It is requested that the Examiner telephone the undersigned attorney at (215) 670-2455 should there be anyway that we could help to place this Application in condition for Allowance.

Respectfully submitted,

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